

BUSINESS LAW I
Midterm – Part 2

1. Sue Smith purchased a house in Baltimore County, Maryland across the street from a wooded area owned by the County. Within a year of Sue's purchase, the County converted the wooded area to a landfill. The landfill accepted hazardous waste and other trash that could be harmful to the environment. Sue made multiple complaints to the County Executive, John, to no avail. Thus, Sue filed a lawsuit against the County alleging violations of federal environmental laws pertaining to groundwater contamination and air pollution. (15)

a. In which Court(s) may Sue file her lawsuit?

Answer: Sue should file her lawsuit in Federal District Court

b. What factors must Sue consider? Provide the full rationale for your answer and include every Court that you believe is proper. (THE EXACT NAME OF THE COURT IS NOT REQUIRED, JUST THE TYPE AND LEVEL.)

a. Does Sue have standing to sue? Why or why not?

Answer: Yes, if the county is indeed violating federal environmental laws pertaining to groundwater contamination and air pollution. There could also be some zoning violations.

b. If either litigant is dissatisfied with the outcome of the case, based on your answer(s) to Question 1a. what would be the next step(s)?

File and appeal in the U.S. Circuit Court of Appeals, it is the intermediate appellate court for the federal court system.

2. Assume that the Court in which Sue files requires mediation or non-binding arbitration. Also assume that the mediator or arbitrator decides that Sue's legal argument is sound and decides in her favor. The County disagrees and desires to challenge the mediator/arbitrator's decision. (5)
 - a. **What options are available to the County?**

Answer: Since it is a non-binding arbitration, the County could file an appeal in the U.S. Circuit Courts of Appeals

3. Assume that Sue's case proceeds to trial. Sue testifies that she is certain that her drinking water has been contaminated and is making her sick. She describes her water as looking, tasting and smelling different since the landfill was built. Sue also testifies that the landfill emits a terrible stench and that she is fearful that she will develop lung cancer if the landfill continues polluting the air. The County's expert witness testifies that the Landfill is operating in accordance with federal environmental laws. Further, the expert states that in his opinion and based on similar situations in California, Texas and New York, the air and water impacted by the Landfill cannot lead to negative health complications in humans. (10)

Answer: Yes, because she is testifying to her own personal experience based on wrongdoing that she believes is happening. She should have also had some testing done and provided her own expert witness.

- a. **Is the expert witness' testimony admissible? Why or why not?**

Answer: I believe that it should not be because he did not provide any substantial data and based his opinion on territories outside of Maryland.

4. Assuming that the Judge is satisfied that the County's expert witness is an expert on federal environmental law, may the Judge accept the expert witness' testimony as the proper interpretation? (5)

Answer: Yes, if the Judge believes that the expert is credible, He/She can accept the expert witness' testimony as the interpretation given that all the other facts are supportive.

5. After the testimony of the Landfill's President, Mary, Sue goes on a rampage. She sends emails to the County Council describing John as "the biggest liar in the world" who is "intentionally polluting my air and water to either kill me or force me to sell my property." She describes Mary as a "whoring floozy" who "only has her position because of sexual favors to John." On Sue's Facebook page, she repeats the same statements and wishes that "the lying, evil County Executive and his mistress get what's coming to them. They definitely both deserve to die for what they have done to the citizens of Baltimore County." Mary's Husband learns of Sue's comments and files for divorce from Mary. (15)

a. **Does John, the County Executive, have any legal claims against Sue? Why or why not?**

Answer: John can file suit for defamation of character but he has not suffered any damages, so he probably will not get any award. It would be a frivolous law suit.

b. **Does Mary, the Vice President, have any legal claims against Sue? Why or why not?**

Answer: Mary can file suit for defamation of character and she can prove damages because her husband divorced her after reading Sue's face book writings.

c. **Does Sue have any defenses to legal claims made by either John or Mary? Why or why not?**

Answer: She could plead temporary insanity caused by drinking contaminated water.

6. John accuses Sue of threatening his life and the Baltimore County Police go to Sue's home to arrest her at 1:30 pm. Sue refuses to open her door. So, the Police force their way into her home and arrest Sue. They take her computer back to the Police Station with them as evidence of Sue's alleged crime. After Sue is arrested, she is questioned by the Police Chief. She confesses to him that she is guilty of threatening the County Executive and shows him the Facebook post and other online statements authored by her. The Police Chief tells Sue, "You are in BIG trouble. I hope you know a good lawyer!" The next morning, Sue is allowed to use her one phone call to contact an attorney. (EXTRA CREDIT - 10)

a. Sue's attorney believes that the Police have violated her constitutional rights. What constitutional claim(s) does Sue have? Provide a detailed rationale for your answer.

Answer: Two constitutional claims that Sue may have is that the Police violated her 4th amendments rights and conducted an illegal search and seizure because they did not have a Search Warrant when the confiscated her computer. Secondly, they did not read her the Miranda's rights in violation of the 5th amendment rights to remain silent and not incriminate herself.